THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 25261 of 2006.

DATED: 6-12-2006

Between:

Sri Venkata Sai Karthil Raw and
Boiled Rice Mills, Nellore.

…Petitioner

and

The Joint Director, ESI Corporation,
Vijayawada and others.

…Respondents.

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 25261 of 2006.

Oral order:

This writ petition is filed against the communication of the 2nd respondent dated 20-11-2006 addressed to the 3rd respondent. A prohibitory/recovery order was passed against the petitioner on 28-7-2006 for recovery of the dues of ESI contribution due from the previous owner of the Rice Mill from whom the petitioner had purchased the unit in February, 2005 in a public auction conducted by a Nationalized bank-the Andhra Bank. Against the order dated 28-7-2006 the petitioner approached the Employees State Insurance Court in E.S.I.O.P.No.210 of 2006, in November, 2006. He deposited 50 per cent of the demand and filed an application therewith seeking interim stay of recovery of the balance 50% of the demand. Neither the petitioner's principal application nor the application for interim stay have yet been considered and disposed of by the Insurance Court.

While so, on 6-11-2006, the 2nd respondent directed the 3rd respondent to transfer an amount of Rs.3,09,117/- from the petitioner's account (lying with the 3rd respondent) to the ESI account on the basis of the recovery order dated 28-7-2006. As the 3rd respondent had not yet transferred the amount as directed in the 2nd respondent's order dated 6-11-2006, by the impugned order dated 20-11-2006, the 2nd respondent called upon the 3rd respondent to show cause why the 3rd respondent be not declared a defaulter under the provisions of the Employees State Insurance Act. As a consequence of this coercive communication of the 2nd respondent addressed to the 3rd respondent, the petitioner apprehends, the 3rd respondent would transfer the amount demanded to

the credit of the ESI from the petitioner's account. This is the grievance in this writ petition.

In the circumstances above, after hearing the learned Standing Counsel for the respondents I and 2 and Sri Addepalli Suryanarayana, the learned counsel for the 3rd respondent, the writ petition is disposed of as follows:

The communication dated 20-11-2006 addressed by the 2nd respondent to the 3rd respondent shall remain suspended and shall not be acted upon either by the 2nd respondent or the 3rd respondent until the Employees State Insurance Court considers and disposes of the petitioner's application for interlocutory relief in E.S.I.O.P.No.210 of 2006. Thereafter, the 2nd respondent may take further steps in accordance and in conformity with the interim orders passed by the E.S.I. Court in E.S.I.O.P.No.210 of 2006.

The writ petition is disposed of as above at the admission stage. No costs.

GODA RAGHURAM, J

6th November, 2006.

Note:
Issue copy by tomorrow.

/B.O/
GRR